

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID LEE SIEWERT,

Petitioner,

vs.

DIRECTOR OF CORRECTIONS, *et al.*,

Respondents.

3:07-cv-00020-LRH-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 7, 2008, respondents filed a motion to dismiss the petition. (Docket #17). Petitioner has filed a motion for an extension of time in which to file a response to the motion to dismiss. (Docket #21). Petitioner seeks a 60-day enlargement of time, up to and including September 14, 2008, to file a response. Having reviewed the motion and good cause appearing, petitioner's motion is granted.

Petitioner has also filed a motion for the appointment of counsel. (Docket #22). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the

1 petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See*
2 *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

3 On January 17, 2008, this Court denied petitioner's prior motion for the appointment of
4 counsel. (Docket #11). The amended petition on file in this action (Docket #12) is sufficiently clear
5 in presenting the issues that petitioner wishes to bring. The issues in this case are not especially
6 complex. It does not appear that counsel is justified in this instance. The motion shall be denied.

7 **IT IS THEREFORE ORDERED** that petitioner's motion for an extension of time to file a
8 response (Docket #21) to the motion to dismiss is **GRANTED**. Petitioner's response shall be filed
9 on or before **September 14, 2008**.

10 **IT IS THEREFORE ORDERED** that petitioner's motion for the appointment of counsel
11 (Docket #22) is **DENIED**.

12 DATED this 26th day of July, 2008.



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15 LARRY R. HICKS
16 UNITED STATES DISTRICT JUDGE
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